

STATE OF HAWAII
REQUEST FOR EXEMPTION FROM CHAPTER 103F, HRS

TO: Chief Procurement Officer

FROM: Loretta J. Fuddy, A.C.S.W., M.P.H.
Acting Director of Health
(Department/Division/Agency)

Pursuant to § 103F-101(a)(4), HRS, and Chapter 3-141, HAR, the Department requests a procurement exemption to purchase the following:

Description of health and human services:

Pursuant to § 321-171, Hawaii Revised Statutes (HRS), the Department of Health (DOH) is responsible to "provide preventative, diagnostic, treatment and rehabilitative services for emotionally disturbed and mentally ill children and youth." Under the Felix Consent Decree, the DOH's Child and Adolescent Mental Health Division (CAMHD) is responsible for providing related mental health services to Felix class youth. Therefore, the provision of services covered under this exemption request is to ensure the State provides appropriate services and complies with the Individuals with Disabilities in Education Act (IDEA) (20 U.S.C. § 1401) and Section 504 of the Rehabilitation Act.

This request for exemption from Chapter 103F, HRS, is for the placement of youth requiring treatment and rehabilitation services in out-of-state psychiatric facilities and other services that may include ancillary services, limited medical care and services to facilitate the transition of the youth from an inpatient milieu. The decision to place a youth in an out-of-state facility is only after all efforts to meet the youth's treatment needs in Hawaii have been exhausted; or the youth's treatment needs require a specialized treatment that is not locally available, and the determination for placement is reflected in the youth's Individualized Education Program (IEP) or court order. Russell Suzuki, Deputy Attorney General, who is the lead counsel for the State of Hawaii, has affirmed that federal obligations supercede state laws and rules.

Name of Service Provider	Cost: Approximately \$720,000.00* per Fiscal Year	Term of Contract:
To be determined	*Expected to decrease, and based on specialized clinical needs of youth.	From: Date of Approval To: June 30, 2004

Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State:

The determination to utilize an out-of-state facility is through a multidisciplinary treatment team decision that is based on the treatment needs of an individual youth, such needs vary in terms of the specific services required and therapeutic outcomes expected. The ability to anticipate, develop, and adequately meet all necessary procurement requirements for each youth in need of services in a timely manner is not practicable. Any delay of a service that is determined to be clinically necessary would not be in the best interest of the youth or the State. The need to place youth in out-of-state facilities occurs only after all local options have been considered. The CAMHD service delivery system is responsive to the behavioral health treatment needs of most youth; however, there are a few youth who have complex clinical needs that require treatment in out of state facilities. If these youth do not receive appropriate treatment they remain in more costly and restrictive hospital-based residential programs.

Based on the aforementioned, it would not be practical to engage in a competitive procurement as the unit rate(s) for out-of-state facilities, in general, are competitive with or less than rates established by the CAMHD for community- and/or hospital-based residential programs.

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Details of the process or procedure to be followed in selecting the service provider to ensure maximum fair and open competition as practicable:

All decisions are made through a multidisciplinary treatment team and the I.E.P. process, and/or court order after all locally available programs have been considered and deemed inappropriate. Provider selection is driven by the clinical needs of the youth.

A description of the state agency's internal controls and approval requirements for the exempted procurement:

In general, youth who are placed in out-of-state facilities usually are involved with multiple state departments (i.e., JUD, DHS, DOE and DOH), and the placement decision is team based and must be in the youth's IEP. Therefore, **all placement decisions are made by a group of professionals knowledgeable about the youth, the meaning of the evaluation or clinical data, and the placement options.** Prior to placement, affected department heads provide written approval for the placement (see attachment 1); and the receiving state must agree in writing to accept the youth through the Interstate Compact Agreement.

Furthermore, the Federal Court Monitor closely monitors the number of youth placed in out of state facilities as the state has agreed in the Felix Consent Decree to provide treatment for all youth in Hawaii. Thus, the decision to place a youth in out of state facility is not done without the oversight of the Departments of Health, Education and Human Services (as applicable).

A list of state agency personnel, by position title, who will be involved in the approval process and administration of the contract:

Loretta Fuddy, Director of Health
Christina M. Donkervoet, Chief, Child and Adolescent Mental Health Division
Bruce Chorpita, Clinical Director
Alfred Arensdorf, Medical Director
Douglas Miller, Assistant Chief
Mary Brogan, Performance Manager
Family Guidance Center Branch Chief (as applicable)
Carol Matsuoka, Contracts Supervisor

Direct questions to:

Phone Number:

Carol Matsuoka, Contracts Supervisor

733-9857

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This exemption should be considered for list of exemptions attached to Chapter 3-141, HAR: Yes ☐

No ☐

I certify that the information provided above is to the best of my knowledge, true and correct.


Department/Agency Head

12/27/02
Date

Chief Procurement Officer's Comments:

Please ensure adherence to applicable administrative requirements.

☒ Approved

☐ Denied


Chief Procurement Officer

12/27/02
Date

cc: Administrator
State Procurement Office


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STATE OF HAWAII
PLACEMENT POLICY FOR SPECIAL NEEDS CHILDREN/YOUTH

POLICY

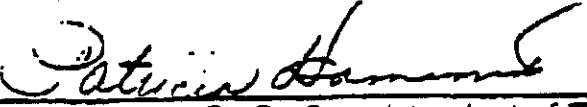
Children and youth shall be placed in the least restrictive environment (LRE) appropriate to their needs. This requires that children/youth receive the necessary education, health and human services within the State of Hawaii to the fullest extent possible. The placement of a child/youth requiring a free appropriate public education (FAPE) shall be based on a team decision by a group of persons knowledgeable about the child/youth. Out-of-State Placement will be considered only when the nature and severity of the disability is such that FAPE cannot be achieved in the State of Hawaii.

Exceptions to this policy requires waivers involving written agreements between the Superintendent of Education and Director of a Health. The Director of Human Services shall also be party to this agreement if the child/youth is under the custody of the Department of Human Services.



Bruce Anderson, Ph.D., Director
Department of Health

2/26/99
Date



for Paul LeMahieu, Ph.D., Superintendent of Education
Department of Education

2.26.99
Date



Susan Chandler, Ph.D., Director
Department of Human Services

2/26/99
Date